

Appl. No. 10/734,843
Amdt. dated November 7, 2006
Reply to Office Action of August 15, 2006

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REMARKS/ARGUMENTS

Claims 1 – 20 are presented for Examiner Mayes's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants have amended independent claims 1, 10 and 16, as well as dependent claims 2 – 9, 14, 15 and 19 and 20. Independent claims 1, 10 and 16 have been amended to correspond to the description presented in the specification. In particular, a first and a second web are recited with the elastic band being attached to at least one of the webs. The absorbent assembly is then secured between the first and second webs. One of the webs is then folded upon the other web and the webs are bonded together before being cut into individual absorbent articles. Basis for this language is found in the specification starting on page 3, line 16 and continuing to page 18, line 11. In addition, independent claim 10 has been amended to recite in paragraph c) that the elastic band is attached to the first web after the first web has been stretched from between about 10% to about 500%. Basis for this language is found in the specification on page 3, lines 29 - 31. Furthermore, independent claim 16 has been amended to recite in paragraph c) that the elastic band is attached to the first web after the first web has been stretched from between about 50% to about 300%. Basis for this language is also found in the specification on page 3, lines 29 - 31. No new matter has been introduced into the claims by way of any of the above amendments and therefore they should be entered at this time. Applicants thank Examiner Mayes for pointing out that the specification refers to "first and second webs to which the absorbent assembly is secured."

Dependent claims 2 – 9, 14, 15 and 19 and 20 have been amended to refer to the first and second webs.

By way of the Office Action mailed August 15, 2006, Examiner Mayes objected to claims 10 and 16 because paragraph e) of each claim did not recite "said" distal end. Applicants have amended claims 10 and 16 to correct for this oversight. Applicants thank Examiner Mayes for bringing this to their attention. In view of the amendments, this objection should now be withdrawn.

By way of the Office Action mailed August 15, 2006, Examiner Mayes rejected claims 1 - 20 under 35 U.S.C. § 112, first paragraph, for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Examiner Mayes stated that the specification referred to first and second webs to which the elastic band and the absorbent assembly were attached yet the claim language recited front and back panels. Examiner Mayes also stated that independent claim 16 recited a single back panel but dependent claim 20, which depended

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therefrom, recited "each of said back panels". This rejection is respectfully **traversed** in view of the amendments made to independent claims 1, 10 and 16, as well as to dependent claims 2 – 9, 14, 15 and 19 and 20. The claim language now reflects the description presented in the specification. Accordingly, this rejection should now be withdrawn.

By way of the Office Action mailed August 15, 2006, Examiner Mayes rejected claims 1, 6 – 8, 10, 16 and 19 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,018,369 (Van Gompel et al.) in view of EP 1,240,881 (Otsubo et al.). This rejection is respectfully **traversed** in view of the filing of a timely terminal disclaimer. Applicants have elected to file a terminal disclaimer to overcome this actual or provisional rejection based on a non-statutory double patenting ground by showing that U.S. Patent No. 7,018,369 (Van Gompel et al.) and the present patent application are commonly owned. Accordingly, this rejection should now be withdrawn.

By way of the Office Action mailed August 15, 2006, Examiner Mayes rejected claims 1, 6 – 8, 10, 16 and 19 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 and 15 of U.S. Patent No. 6,979,380 (Thorson et al.) in view of EP 1,240,881 (Otsubo et al.) and WO 96/08224 (Cesco-Cancian). This rejection is respectfully **traversed** in view of the filing of a timely terminal disclaimer. Applicants have elected to file a terminal disclaimer to overcome this actual or provisional rejection based on a non-statutory double patenting ground by showing that U.S. Patent No. 6,979,380 (Thorson et al.) and the present patent application are commonly owned. Accordingly, this rejection should now be withdrawn.

By way of the Office Action mailed August 15, 2006, Examiner Mayes rejected claims 1, 6 – 8, 10, 11, 16 and 19 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 6,979,380 to Thorson et al. in view of EP Patent Number 1 240 881 to Otsubo et al. and in view of WO Patent Number 96/08224 to Cesco-Cancian. This rejection is respectfully **traversed** in view of the amendments made to independent claims 1, 10 and 16.

Examiner Mayes has correctly noted on page 8 of his Office Action that the Thorson et al. patent (U.S. 6,979,380) does not teach or disclose applying the elastic band so as to be cantilevered outward from the outer distal end of either the first or second webs. The Thorson et al. patent also does not teach or disclose providing the crotch member as an absorbent assembly including a liquid pervious bodyside liner, a liquid-impervious outer cover and an absorbent positioned therebetween. In addition, although not noted by Examiner Mayes, the Thorson et al. patent does not teach or disclose attaching an elastic band to the first web after the first web has been stretched from between about 10% to about 500%. Furthermore, the Thorson et al. patent does

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not teach or disclose attaching an elastic band to the outside surface of the second web after the second web has been stretched from between about 50% to about 300%.

The European Patent 1 240 881 to Otsubo et al. does teach a process for continuously making pants-type diapers. However, Otsubo et al., like the Thorson et al. patent, does not teach or disclose applying the elastic band so as to be cantilevered outward from the outer distal end of either the first or second webs. Likewise, Otsubo et al. does not teach or disclose attaching an elastic band to the first web after the first web has been stretched from between about 10% to about 500% nor does it teach attaching an elastic band to the outside surface of the second web after the second web has been stretched from between about 50% to about 300%.

WO 96/08224 to Cesco-Cancian does teach a partially elastic, disposable absorbent pant having a substantially uniformly, fully gathered elastic waistband. As Examiner Mayes points out, Fig. 5B of Cesco-Cancian does show a waistband that extends beyond the peripheral edge of the waistborder. However, as clearly depicted in Figs. 1, 2 and 3 of Cesco-Cancian, the waistband encircles the entire 360 degrees of the waist opening. The elastic band is not secured to only one of the first and second webs in the manufacture of the products as presently claimed by Applicants. Furthermore, Applicants' present claim 1, paragraph c) recites: "attaching an elastic band to one of said first and second webs...". Applicants' present claim 10, paragraph c) recites: "attaching an elastic band to said first web after said first web has been stretched from between about 10% to about 500%...". Applicants' present claim 16, paragraph c) recites: "attaching an elastic band to said outside surface of said second web after said second web has been stretched from between about 50% to about 300%...". WO 96/08224 to Cesco-Cancian does not teach or disclose any of these features or structure. In view of this, the combination of Thorson et al., Otsubo et al. and Cesco-Cancian fail to teach or disclose Applicants' presently claimed invention. Accordingly, this rejection should be withdrawn.

By way of the Office Action mailed August 15, 2006, Examiner Mayes rejected claims 10 -13, 16, 17 and 19 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over EP Patent Number 1 240 881 to Otsubo et al. in view of WO Patent Number 96/08224 to Cesco-Cancian. This rejection is respectfully traversed in view of the amendments made to independent claims 10 and 16.

Examiner Mayes has correctly noted on page 10 of his Office Action that the Otsubo et al. patent (EP 1,240,881) does not teach or disclose providing the elastic web halves with elastic bands cantilevered outward from the distal ends of the first and second webs. Examiner Mayes also admits that Cesco-Cancian (WO 96/08224) recites a continuous waistband surrounding the waist opening as depicted in Figs. 1, 2 and 3. As explained above, Applicants are claiming a method of

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forming an absorbent article wherein an elastic band is attached to one of the first and second webs in a cantilever fashion. One skilled in the art would not arrive at Applicants' invention after reading Otsubo et al. and Cesco-Cancian. In view of this, the combination of Otsubo et al. and Cesco-Cancian fail to teach or disclose Applicants' presently claimed invention. Accordingly, this rejection should be withdrawn.

For the reasons stated above, it is respectfully submitted that amended claims 1 - 10, 14 - 16, 19 and 20, as well as claims 11 - 13, 17 and 18, are now in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,
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CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on November 7, 2006, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

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